UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,868	10/24/2003	Caglar Gunyakti	MSFT-2822/305442.1	2074

41505   7590   07/01/2009
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

EXAMINER
MURDOUGH, JOSHUA A

ART UNIT	PAPER NUMBER
3621	

MAIL DATE	DELIVERY MODE
07/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 April 2009*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date *2/05/2009*.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 C.F.R. § 1.114

1.   A request for continued examination ("RCE") under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application

is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR

1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn

pursuant to 37 CFR 1.114. Applicant's submission filed on 1 April 2009 has been entered.

Acknowledgements

2.   This action is responsive to Applicants' above noted RCE and the associated amendments

received 1 April 2009.

3.   This action has been assigned paper number 20090622 for reference purposes only.

4.   Claims 1-25 are pending and have been examined.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 1-3, 5-13, 15-23, and 25 are rejected under 35 U.S.C. §103(a) as being

unpatentable over Remer (US 2003/0088516) in view of Asokan (US 2003/0076957).

7.   As to claims 1, 8, and 16, Remer shows:

a.   A system comprising:

b.   a processor for executing computer-executable instructions (inherent in Service

Management Console 30); and

c.   a computer-readable storage medium (inherent, in order to have software on a

computer, the computer must have storage) having encoded thereon computer-executable

instructions to support the enforcement of a license ("service agent," [0032]) for a

computer program subject to use under a plurality of licenses each permitting different

rights in the computer program (software, [0002]), the computer-readable storage

medium comprising:

d.   a licensing component common to the plurality of licenses (Figure 2, step 230) for

the computer program, the licensing component maintains a license store ("Discovery

Database") in which the licenses are stored, the licensing component further maintains a

trust store in which dynamic data ("digital signature," Figure 3A, step 310) is stored,

wherein the dynamic data is utilizable to validate the licenses (Id.), each license

comprising at least one right in the computer program (execute right for a version,

[0080]) and a set of data associated with said at least one right (expiration date, Id.; Node

ID, [0030]), the licensing component exposing a callable interface to the computer

program (Figure 3A, Step 300), said callable interface comprising:

e.   a right-consumption component (Figure 3B, Step 420) which receives an

identifier of a right from the computer program [0080] and determines whether the right

can be exercised (Figure 3B, Step 420); and

     f.   an information-retrieval component which receives an identifier of said right from the computer program ("POS License Node ID," Figure 3B, Step 390) and provides said set of data, or information based on said set of data, to the computer program (update POS License, Figure 3B Step 410).

8.   Remer does not expressly show:

     g.   dynamic data is stored in a tamper-resistant manner

9.   However, Asokan shows the use of tamper-resistant storage 101. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Remer to store the dynamic data in a tamper-resistant storage such as the one taught by Asokan, in order "to securely protect critical data from unauthorized use or modification [0001].

10.   As to claims 2 and 23, Remer further shows:

     h.   said licensing component is common to and usable by a plurality of different computer programs and said license store stores licenses for the plurality of different computer programs (computer services, [0002]), the computer program being included among said plurality of different computer programs [0012], wherein said callable interface further comprises:

a handle-opening component that provides a handle to the computer program (through the operating system, WIN95 or WIN98; [0041] and Table 2; Both Windows 95 and 98 contain WinAPI which uses handles, therefore calls to other software would be done through these handles.);

i.   wherein the rights-consumption component receives the handle from the

computer program and uses the handle to identify the computer program from which a

call to the rights- consumption component is received (Id.); and wherein the computer

program and licensing component are located on a single computing device [0026].

11.   As to claim 3 and 20, Remer further shows:

j.   the rights-consumption component causes the licensing component to select a

license based on one or more factors comprising:

k.   whether the license store is associated with the computer program (Figure 2, Step

240); and

l.   a conflict rule that determines which license to select from among a plurality of

licenses that are associated with the computer program (unexpired licenses are used

instead of the collected expired ones, Figure 2, Step 250).

12.   As to claims 5 and 17, Remer further shows:

m.   the rights-consumption component determines whether the right can be exercised

based on whether the right is identified in a license (installed software is only allowed to

be used for a predetermined amount of time [0002]; license enforcement [0012]).

13.   As to claim 6, Remer further shows:

n.   the computer program ("software services" Abstract) and the licensing

component ("licenses are maintained on the computer" Abstract) execute on a machine

("POS computer"), and wherein the rights-consumption component ("licensing service agent" Abstract) determines whether the right can be exercised based on whether the license is bound to said machine ("license that is uniquely identified with a specific computer" Abstract).

14.   As to claims 7 and 19, Remer further shows:

o.   the computer program is associated with a product identifier [0028], and wherein the rights-consumption component determines whether the right can be exercised based on whether the license is bound to said machine ("license that is uniquely identified with a specific computer" Abstract) or to a class of machines of which said machine is a member.

15.   As to claim 9, Remer further shows:

p.   said first behavior comprises allowing the computer program to execute (if paid for, new license is issued and the user can continue using [0027]), and wherein said second behavior comprises discontinuing execution of the computer program (if not paid for, the software is disabled, Id.).

16.   As to claim 10, Remer further shows:

q.   said first behavior comprises allowing the computer program to perform a first set of functions [0057]-[0060], wherein said second behavior comprises allowing the

computer program to perform a second set of functions that is non- identical to said first

set of functions [0061]-[0065].

17.   As to claims 11, 18, and 25, Remer further shows:

r.   the right is associated with a set of data (update, [0064]), wherein the method

further comprises:

s.   making a second call to a second method of said interface [0062], said second

method being parameterized by an indication of the right (new license contains the

indication that the user has a right to update [0064]; and

t.   in response to said second call, receiving said set of data (Id.).

18.   As to claim 12, Remer further shows:

u.   directing the operation of the computer program based on said set of data (updates

change the functionality of the software, Id.).

19.   As to claim 13, Remer further shows:

v.   making a second call to a second method of said interface; and

in response to said second call, receiving a handle; wherein said second call is made prior

to said first call, and wherein said first call is further parameterized by said handle (This

is the inherent operation when using a handle. First the handle must be requested. Then,

once the handle is provided, it can be used to call the program it is a pointer to. In order

to call that program, the address, or handle, needs to be used in the call.).

20.   As to claims 15, 21, and 22, Remer further shows:

w.   said first method determines whether the right is exercisable based on one or more

factors comprising:

x.   whether the license is bound to a machine or environment on which the computer

program is executing ("license that is uniquely identified with a specific computer"

Abstract);

y.   whether the license or right is bound to a product identifier associated with the

computer program;

z.   whether the license or right has expired; and

aa.   whether the right has been consumed a number of times in excess of a right

specified in the license.

21.   Claims 4, 14, and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Remer

and Asokan as applied to claims 1, 8, and 16 above, and further in view of Zahir (US 6,115,777).

22.   Remer and Asokan teach as previously discussed in regards to claims 1, 8, and 16.

23.   Remer and Asokan do not expressly teach:

the licensing component does not enforce licensing constraints on the computer program, and

wherein said callable interface further comprises:

bb.   an asynchronous-context-initiator component that establishes a context for

asynchronous processing and provides an identifier of said context to the computer

program;

cc.   wherein said rights-consumption component receives the identifier of said context

from said computer program and processes a right-consumption request asynchronously

in response to receipt of the identifier of said context.

dd.   making a second call to a second method of said interface; and

ee.   in response to said second call, receiving an asynchronous context;

wherein said second call is made prior to said first call, wherein said first call is further

parameterized by said asynchronous context, and wherein the computer program

performs at least one action while the first call is handled asynchronously.

24.   However, Zahir teaches the use of asynchronous context switching (title). In particular,

Zahir teaches an asynchronously called interrupt and the change from the initial context to the

context of the interrupt and back (Figures 8_1 and 8_2). Therefore, it would have been obvious

to one of ordinary skill in the art at the time of the invention to have further modified the

teachings of Remer to include the asynchronous context switching of Zahir because the

asynchronous processing allows for the most important processing to be given priority.

25.   The Examiner hereby adopts the following definitions under the broadest reasonable

interpretation standard. In accordance with *In re Morris,* 127 F.3d 1048, 1056, 44 USPQ2d

1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his

interpretation of the claims.[1] Additionally, these definitions are only a guide to claim

terminology since claim terms must be interpreted in context of the surrounding claim language.

Finally, the following list is not intended to be exhaustive in any way:

> ***Asynchronous Operation***: "An operation that proceeds independently of any timing
>
> mechanism, such as a clock." Computer Dictionary, 3rd Edition, Microsoft Press,
>
> Redmond, WA, 1997.

> ***Context Switching***: "A type of multitasking; the act of turning the central processor's
>
> 'attention' from one task to another rather than allocating increments of time to
>
> each task in turn." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond,
>
> WA, 1997.

> ***Interrupt***: "A request for attention from the processor. When the processor receives an
>
> interrupt, it suspends its current operations, saves the status of its work, and
>
> transfers control to as special routine known as an interrupt handler, which
>
> contains the instructions for dealing with the particular situation that caused the
>
> interrupt." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA,
>
> 1997.

26.   Applicant's arguments with respect to claim1-25 have been considered but are moot in

view of the new ground(s) of rejection.

---

[1] While most definitions are cited because these terms are found in the claims, the Examiner may
have provided additional definition(s) to help interpret words, phrases, or concepts found in the
definitions themselves or in the prior art.

Conclusion

27.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-

3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor,

Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization

where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621